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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,739	05/18/2006	Motohiro Itadani	4918-0108PUS1	3560
2292	7590	10/11/2007		
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER MOONEY, MICHAEL P	
			ART UNIT 2883	PAPER NUMBER
			NOTIFICATION DATE 10/11/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/579,739

Applicant(s)

ITADANI ET AL.

Examiner

Michael P. Mooney

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2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/18/06, 8/24/06</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102b as being anticipated by Itakura et al. (20030122991).

Itakura et al. teaches a liquid crystal display device (e.g., fig. 10) of an in-plane switching mode which comprises a pair of polarizers 31 32 which are a polarizer at an output side and a polarizer at an incident side (e.g., fig. 10) and disposed at relative positions such that absorption axes of the polarizers are approximately perpendicular to each other (e.g., fig. 10) and at least optically anisotropic member (A), optically anisotropic member (B) and a liquid crystal cell which are disposed between the pair of polarizers, wherein $n_{\text{sub.zA}} > n_{\text{sub.yA}}$ and $n_{\text{sub.xB}} > n_{\text{sub.zB}}$ when, with respect to optically anisotropic member (A) and optically anisotropic member (B), refractive indices in a direction of an in-plane slow axis are represented by $n_{\text{sub.xA}}$ and $n_{\text{sub.xB}}$, respectively, refractive indices in a direction in-plane and perpendicular to the direction of an in-plane slow axis are represented by $n_{\text{sub.yA}}$ and $n_{\text{sub.yB}}$, respectively, and refractive indices in a direction of a thickness are represented by $n_{\text{sub.zA}}$ and $n_{\text{sub.zB}}$, respectively, each measured using light having a wavelength of 550 nm; the in-plane slow axis of optically anisotropic member (A) and the in-plane slow axis of

optically anisotropic member (B) are disposed at relative positions approximately parallel or approximately perpendicular to each other; and the in-plane slow axis of optically anisotropic member (A) and the absorption axis of a polarizer disposed closer to optically anisotropic member (A) are disposed at relative positions approximately parallel or approximately perpendicular to each other (figs. 10, 20).

Thus claim 1 is met

Each and every element of each of claims 2-11 is taught by Itakura et al. figs. 10, 20. Thus claims 2-11 are met.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itakura et al. (20030122991).

Itakura et al. teaches a liquid crystal display device (e.g., fig. 10) of an in-plane switching mode which comprises a pair of polarizers 31 32 which are a polarizer at an output side and a polarizer at an incident side (e.g., fig. 10) and disposed at relative positions such that absorption axes of the polarizers are approximately perpendicular to each other (e.g., fig. 10) and at least optically anisotropic member (A), optically anisotropic member (B) and a liquid crystal cell which are disposed between the pair of polarizers, wherein $n_{\text{sub.zA}} > n_{\text{sub.yA}}$ and $n_{\text{sub.xB}} > n_{\text{sub.zB}}$ when, with respect to optically anisotropic member (A) and optically anisotropic member (B), refractive indices in a direction of an in-plane slow axis are represented by $n_{\text{sub.xA}}$ and $n_{\text{sub.xB}}$, respectively, refractive indices in a direction in-plane and perpendicular to the direction of an in-plane slow axis are represented by $n_{\text{sub.yA}}$ and $n_{\text{sub.yB}}$, respectively, and refractive indices in a direction of a thickness are represented by $n_{\text{sub.zA}}$ and $n_{\text{sub.zB}}$, respectively, each measured using light having a wavelength of 550 nm; the in-plane slow axis of optically anisotropic member (A) and the in-plane slow axis of optically anisotropic member (B) are disposed at relative positions approximately parallel or approximately perpendicular to each other; and the in-plane slow axis of optically anisotropic member (A) and the absorption axis of a polarizer disposed closer to optically anisotropic member (A) are disposed at relative positions approximately parallel or approximately perpendicular to each other (figs. 10, 20).

Although Itakura et al. does not explicitly state "wherein optically anisotropic member (A) comprises a layer selected from following layers (i) to (iii): (i) A layer comprising a material having a negative value of intrinsic birefringence, (ii) A layer

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comprising discotic liquid crystal molecules or lyotropic liquid crystal molecules, (iii) A layer comprising a photo-isomerizable substance” it would have been obvious to do so because it is conventionally known to one of ordinary skill to select from the said layers. Thus claim 12 is rejected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Mooney whose telephone number is 571-272-2422. The examiner can normally be reached during weekdays, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael P. Mooney
Examiner
Art Unit 2883



Frank G. Font
Supervisory Patent Examiner
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FGF/mpm
9/29/07